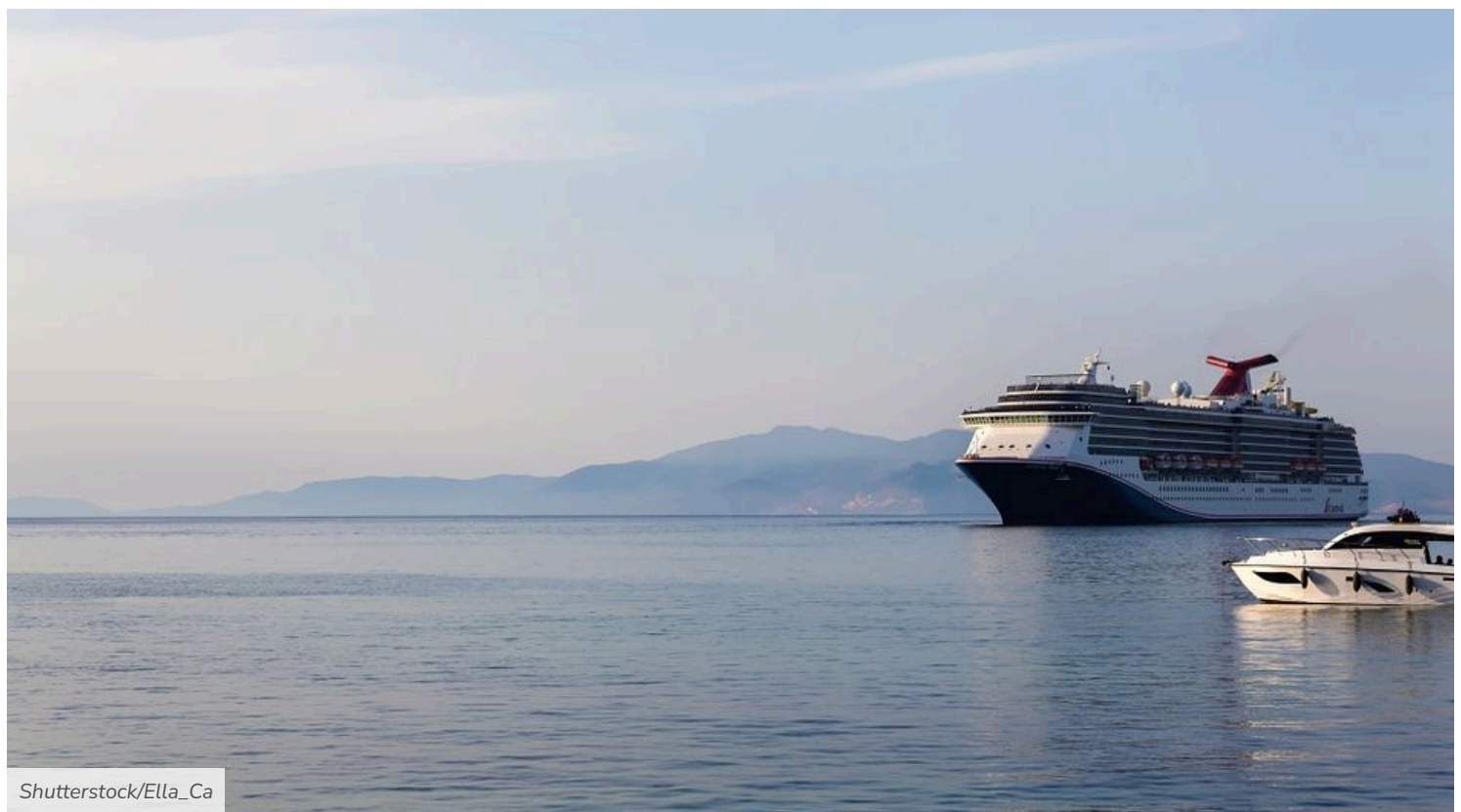


Greece obtains invalidation of TURKAEGEAN for tourism-related services

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- The Hellenic Republic sought a declaration of invalidity of the figurative mark TURKAEGEAN, arguing that it was descriptive and devoid of distinctive character
- The Cancellation Division found that the term 'TURKAEGEAN' was simply the sum of its parts, 'Turk' and 'Aegean'
- The graphic element – a heart symbol – lacked distinctive character, both on its own and in combination with the word element

In cancellation proceedings between Türkiye Turizm Tanitim ve Gelistirme Ajansi (Türkiye's Tourism Promotion and Development Agency or 'TGA') and the Hellenic Republic, the figurative mark TURKAEGEAN was invalidated for being descriptive and devoid of distinctive character ([Cancellation No C 58 927](#)).

Background

In July 2021 TGA applied for the registration of the figurative sign shown below as an EU trademark to cover services in Classes 35, 38, 39, 41, 43 and 45:



The trademark was registered in December 2021.

In February 2023 the Hellenic Republic filed a request for a declaration of invalidity of the mark on the ground that it was descriptive and devoid of distinctive character. It argued that TURKAEGEAN has the meaning of “the part of the Aegean belonging to Turkey” or “the Turkish Aegean”, and thus simply designates the geographical region where the contested services (all relating to tourism and relevant activities) are provided; meanwhile, the red heart symbol, typically associated with the concept of love, conveys a purely laudatory message.

Decision

TGA claimed that the invalidity action was misused by the Hellenic Republic with the intent to advance its own economic interests by monopolising tourism in the geographical area at issue. However, the Cancellation Division found that TGA had failed to demonstrate that there was an abuse of rights in this respect and rejected this argument.

The Cancellation Division further determined that the term ‘TURKAEGEAN’ was, at the time of filing, and remained, perceived by the relevant English-speaking public as a direct reference to the Turkish part of the Aegean region. Given that this region is widely recognised as an economically active area, renowned tourist destination and popular travel hotspot, it was highly likely that consumers would immediately associate all contested services with this region, understanding them as originating from or being provided within it.

Regarding TGA’s assertion that TURKAEGEAN is a syntactically incorrect, fanciful and imaginative neologism that necessitates an interpretative effort, triggers a cognitive process, and fails to convey clear and direct information about the characteristics of the contested services, the Cancellation Division determined first that the assessment of a mark must not be made in the abstract, but in relation to the services concerned. It found that, even if the contested mark may carry vague or multiple abstract meanings, the majority of these interpretations would not readily come to mind for the relevant consumer in relation to the contested services. The Cancellation Division was not convinced by TGA’s argument that the juxtaposition of ‘Turk’ and ‘Aegean’ introduced an additional syllable or altered pronunciation beyond that of the individual elements, and pointed out that a neologism composed of descriptive elements remains descriptive unless it exhibits a perceptible difference beyond the mere sum of its parts. As TURKAEGEAN consisted solely of word elements that designated characteristics of the contested services and was structured in a way that did not significantly deviate from the straightforward combination of the meanings of ‘Turk’ and ‘Aegean’, it was concluded that TURKAEGEAN was just the sum of its parts.

Regarding TGA’s argument that TURKAEGEAN is not commonly or broadly used to designate the contested services, the Cancellation Division clarified that actual usage at the time of the application is not a prerequisite for a sign to be considered descriptive. It is sufficient that it can be used for descriptive purposes. Consequently, a sign must be refused registration if at least one of its possible meanings designates a characteristic of the goods or services in question.

As regards the role of the figurative element (ie, the red heart with radiating rays) in the perception of the contested mark, the Cancellation Division commented that the use of heart-shaped illustrations is a common advertising practice to signal a customer-centric approach and suggest that the services provided will be enjoyable or satisfying. The heart shape in the contested mark did not deviate from conventional representations of a heart. This was reinforced by its subordinate role within the sign, as the verbal element ‘TURKAEGEAN’ dominated due to its size and central positioning. Given the proportions and peripheral placement of the heart image, the overall impression of the mark was overwhelmingly shaped by the term ‘TURKAEGEAN’. The heart is, and was at the time of filing, perceived by the relevant public as a purely decorative feature, merely framing the word element or emphasising the quality of the services. Therefore, contrary to TGA’s claim, the graphic design lacked distinctive character both on its own and in combination with the word element, and did not distract consumers from the clear message conveyed by TURKAEGEAN or mitigate its descriptive nature.

Turning to the non-distinctiveness argument, the Cancellation Division held that, in connection with the contested services, the sign as a whole was and remained perceived by the relevant public as purely promotional, clearly conveying favourable aspects of the services. Specifically, it indicated that they are provided in or originate from the Turkish part of the Aegean region and are tailored to the needs of businesses operating there, by service providers who prioritise customer care and high-quality service delivery. Contrary to TGA’s argument, this interpretation also extended to business and public infrastructure-related services, which can be adapted to meet the specific needs of foreign businesses operating in the region.

The Cancellation Division concluded that the graphic design lacked distinctive character both independently and in combination with the word element, and therefore failed to confer distinctiveness upon the mark. The overall promotional message – conveyed by the verbal element ‘TURKAEGEAN’ alongside the heart figure – was sufficiently clear to the relevant public. In this context, the structure of a slogan and the purported absence of an ‘l’ to complete the phrase ‘I love Turkaegean’, as TGA claimed, were considered irrelevant.

At the time of filing, the relevant public could not discern any meaning in the sign beyond its purely informative and promotional nature. There was – and remained – no indication of commercial origin inherent in the mark.

The Cancellation Division therefore concluded that the contested mark was devoid of distinctive character pursuant to Article 7(1) (b) and Article 7(2) of [Regulation 2017/1001](#) in relation to all of the contested services at the time of filing.

Turning to TGA’s reference to “acquired distinctiveness this sign is gaining through intensive use”, the Cancellation Division noted that the actual use of a mark on the market is irrelevant as regards its inherent distinctive character. In any event, the evidence submitted by the applicant was insufficient to demonstrate that the mark had become distinctive through use.

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